

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 1ST JANUARY 2007 / 11TH POUSHA 1928

MACA.No. 28 of 2003()

OPMV.72/1994 of ADDL.MOTOR ACCIDENT CLAIMS TRIBUNAL, KOLLAM
.....

APPELLANT

P.MURALEEDHARAN, SREYAS, KODUVILA
WARD, KIZHAKKE KALLADA, KOLLAM.

BY ADV. SRI.G.BHAGAVAT SINGH

RESPONDENTS:

1. AJAYA GHOSH, S/O.K.G.PRABHAKARAN,
AJAYA BHAVAN, ASRAMAM, KOLLAM.
2. SURESH, S/O.SADANANDAN,
KATTITTAHIKATHU VEEDU, PALLICHAL,
MYLAM, KOTTARAKKARA.
3. DIVISIONAL MANAGER, UNITED INDIA
INSURANCE CO.LTD., KOLLAM.

R3 BY ADV. SRI.P.JAYASANKAR
R1 BY ADV. SRI.B.SURESH KUMAR
SMT.T.V.NEEMA

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 01/01/2007, THE COURT ON 01/01/2007 DELIVERED THE
FOLLOWING:

K.S. RADHAKRISHNAN & M.N. KRISHNAN, JJ.

M.A.C.A. No 28 of 2003

Dated: 1st January 2007

JUDGMENT

Krishnan, J.

This appeal is preferred against the award of the Claims Tribunal, Kollam in O.P. (M.V) No 72 of 1994. Claimant, an advocate by profession, sustained injuries in a road accident in 1993 as a result of which he had injuries on the foot, suspected fracture on the right knee and ligament injury. His vehicle was also damaged. Tribunal awarded a total compensation of Rs 16,700/-. It is against that decision the present appeal is preferred.

2. Learned counsel for the appellant would contend that the compensation awarded is grossly inadequate and the Tribunal has not considered the disability percentage and also not awarded proper compensation for the repair of the vehicle. Documents produced would show that the claimant was in the hospital from 30.07.1993 to 12.08.1993. He had undergone treatment and had spent about Rs 2,500/- for the same. The Tribunal did not accept the

bills produced for the repairs of the vehicle on the ground that it is excessive and the damages noted to the vehicle as per the M.V.I's report are only simple in nature. The total loss of earning granted by the Tribunal is for one and a half months. It is seen that the claimant had visited the hospital on so many occasions and because of the injury on the knee especially involving ligament it would have caused considerable difficulty for him to do the work at least for three months. Taking his income at Rs 4,000/- per month we are inclined to award Rs 12,000/- towards loss of earning, of which Rs 4,500/- has already been granted and the additional compensation under that head would come to Rs 7,500/-. The nature of the injuries would show that the claimant had undergone severe pain and the Tribunal has only awarded nominal compensation of Rs 4,000/- towards pain and suffering. We enhance it by another sum of Rs 4,000/-. The Tribunal has already awarded Rs 3,000/- towards loss of amenities in life and has not considered the disability at all. Disability certificate indicates the difficulties experienced by the injured. The injury noted is on the knee, but it has to be stated that there was ligament injury sustained by the claimant and therefore it would have been considerably difficult for at least some point of time to the claimant to

attend to his normal duties and avocation. Therefore we feel this is a fit case where we should grant an additional amount of Rs 5,000/- under that head. Regarding the medical bills etc. the Tribunal has granted the amount for which the bills are produced and therefore it does not require any interference. So far as repairs to the vehicle is concerned, bills for Rs 24,684/- are produced. A perusal of the M.V.I's report would show that only headlight glasses were broken and there were some cracks on it and bent on the handle bar. So taking note of all these aspects the Tribunal has awarded a reasonable amount of Rs 5,000/- which does not call for interference. Therefore the additional compensation to which the claimant is entitled to would be Rs 16,500/-. In the result, the appeal is partly allowed and the claimant is entitled to an additional compensation of Rs 16,500/- with 7% interest on the said sum from the date of petition till date of payment and the Insurance Company is directed to deposit the said amount within two months from the date of receipt of a copy of this judgment.

SD/- K.S. RADHAKRISHNAN, JUDGE

01/01/2007en

SD/- M.N. KRISHNAN, JUDGE

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